

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

Criminal No. 1:14-00070

JOSHUA DWAYNE POFF

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's second motion for continuance (Doc. No. 18). Defendant represents in the motion that the government has no objection to the proposed continuance. The court GRANTS the defendant's motion for the reasons below.

In support of the motion, defendant's counsel states that he approached the government with a proposal to consider the defendant for participation in a pretrial diversion program. Id. at ¶ 3. Further, defendant's counsel represents that the government requires additional time to confer with law enforcement regarding this proposal. Id.

The court believes that failure to grant the requested continuance would likely prejudice defense counsel's ability to adequately represent the defendant. Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh

the best interest of the defendant and the public in a speedy trial under 18 U.S.C. § 3161(h)(7)(A), and GRANTS the defendant's motion for continuance. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion "would deny counsel for the defendant . . . the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." 18 U.S.C. § 3161(h)(7)(B)(iv).

Accordingly, the court ORDERS as follows:

1. Trial of this action is continued until November 5, 2014, at 9:30 a.m., in Bluefield;
2. All pretrial motions are to be filed by October 20, 2014.
3. A pretrial motions hearing is scheduled for October 27, 2014, at 11:30 a.m., in Bluefield;
4. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of defendant's motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

It is so **ORDERED** on this 27th day of August, 2014.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge